Our future resource management system

New Zealand Wind Energy Association Submission

28 February 2022

Ministry for the Environment
RM Reform Team

Via email: rm.reform@mfe.govt.nz

Introduction

1. The New Zealand Wind Energy Association (NZWEA) welcomes the reform of the resource management system and appreciates the opportunity to make a submission on the Our future resource management system (OFRMS) consultation.
2. As an introductory comment the Association acknowledges the importance of a well-functioning resource management system and the need for reform. NZWEA also recognises the complexity of ensuring policy and target alignment across the energy, environmental, and climate change domains if New Zealand is to achieve social, economic and environmental wellbeing whilst also being a responsible global citizen.
3. In particular, the Association considers that climate change is a critical issue for the resource management system reform to address, being at the intersection of preventing environmental degradation resulting from inappropriate infrastructure development while enabling responsible development to mitigate the environmental impacts of climate change.
4. Increased renewable electricity generation is the cornerstone of decarbonising the energy sector, meeting New Zealand's international climate change commitments and mitigating climate change impacts. Wind energy is recognised as the largest contributor to meeting the expected increase in demand from electrification and enable existing fossil fuelled generation to be decommissioned. In excess of 50 new wind farms are forecast to be required by 2050[1].
5. The Association has therefore submitted on the Exposure Draft of the Natural and Built Environments Bill[2] and many recent consultations, including the Productivity Commission's Low-emissions Inquiry[3], the Electricity Price Review[4], MBIE's Accelerated Renewable Energy and Energy Efficiency Discussion Document[5], the Zero Carbon Bill[6] , and ETS Reform[7], and has engaged with the Interim Climate Change Committee and responded to the Climate Change Commission's draft advice[8].

[1] Transpower's Te Mauri Hiko Energy Futures Report 2018.
[2] Exposure draft of the Natural and Built Environments Bill and accompanying parliamentary paper July 2021.
[3] Productivity Commission, Low-emissions Economy Report, August 2018.
[4] Electricity Price Review Options Paper, February 2018 and First Report, August 2018.
[5] MBIE Accelerating renewable energy discussion document, December 2019.
[6] Climate Change Response (Zero Carbon) Amendment Bill, May 2019.
[7] MfE Consultation – Reforming the NZ Emissions trading Scheme: Proposed Settings, December 2019.
[8] Climate Change Commission 2021 Draft Advice for Consultation, January 2021.

6. The Association supports the resource management reform objectives however considers that there is a real risk if environmental limits are inappropriately set and absolute in their application they may prevent the development of renewable electricity generation and in particular wind energy.

7. The counterfactual if it is not possible to consent and build wind farms is higher electricity prices and therefore a higher cost to decarbonise the energy sector which would be expected to slow the rate of decarbonisation. Higher electricity prices would also have considerable other social and economic impacts.

Executive Summary

8. The NZWEA has two priority areas of focus which have influenced its response to the OFRMS consultation. These are:

    - Resource management system reform and ensuring the RMA's replacement better enables the wind industry to consent new renewable electricity generation to support achievement of the 2050 net zero carbon emissions target.
    - Sustaining the energy trilemma[9] in the transition of the sector to a higher level of renewable electricity generation particularly in a dry year situation when combined with a projected significant growth in demand.

9. In submitting on the proposed RM reform the Association focuses on the extent to which responsible renewables development is enabled and whether existing RMA deficiencies have been addressed. NZWEA therefore makes the following key points:

A transition pathway is essential to enable renewables development	▪ The consultation document references the importance of transition pathways[10]. ▪ The current RMA system does not appropriately support the national importance of renewable electricity generation with the National Policy Statement for Renewable Electricity Generation (NPS-REG) ineffective – refer appendix 1 for further detail. ▪ There is considerable complexity in developing the national planning framework and the timeframe to transition to the new RM system is expected to be between 5 to 10 years. ▪ Based on CCC Final Advice to Government achieving their demonstration pathway will require 1,772 MW of wind generation by 2030 and under their Tiwai stays scenario the wind build requirement increases to 2,704 MW. ▪ Given the need to accelerate renewables development the Association considers, as a priority, that the NPS-REG should be revised to better enable the development of renewable electricity generation. This

[9] The 'energy trilemma' refers to a country's ability to provide a secure supply of energy, that is affordable and environmentally sustainable.
[10] MfE Consultation, page 15, implementing the NBA and SPA.

	would provide an interim measure of support until the reforms are in place.
Regional spatial strategies and NBEA Plans may assist renewables development but should not constrain development in other areas	▪ The Resource Management Review Panel has highlighted the importance of a long term and integrated strategic approach and clear national direction which the Association supports. ▪ Spatial planning is a recognised method for longer term planning and the development of one regional spatial strategy (RSS) for each region is supported. ▪ The Association notes that RSS's and indeed Natural and Built Environment (NBA) Plans may be helpful in enabling renewables development. ▪ However given the range of factors to be considered in choosing locations for renewables development the Association considers it unlikely these can all be assessed in developing RSS's and NBA Plans. The opportunity to develop renewables, should not be limited to designated areas. ▪ A key risk to future renewables development would therefore be an overreliance on regional spatial strategies particularly if narrowly defined. There would need to be a provision that enables consideration of generation development outside of identified areas albeit with a more demanding consenting process.
An effective conflict resolution mechanism is key to meeting reform objectives	▪ It is essential that potential conflicts between the development of the renewable resource and biophysical limits/outcome have the ability to be resolved through the reformed resource management system.
Ensuring climate change, electricity and environmental sector targets are aligned	▪ The Government has clear targets for climate change, growth of the electricity sector and, once the NPF is fully developed, for environmental targets. ▪ The resource management system is a key enabler of all three sectors and, unless there is clear policy direction in the NBA's purpose and reference in environmental limits to climate targets, there will be a lack of alignment. ▪ Further commentary on sector alignment is in appendix 2.
Ensuring environmental limits set in the NBEA do not have unintended consequences	▪ While not part of this consultation the overarching concern of the wind industry is whether environmental limits will prevent the development of the quantum of renewable generation required to support climate change emission reduction targets. ▪ Recent consultations including the draft National Policy Statement for Indigenous Biodiversity (NPS-IB) have highlighted the risks of broadly defined absolute

	environmental limits. ▪ Wind energy, given resources are location specific, invariably has an environmental impact which has historically been addressed with recourse to mitigation, compensation or offsetting. ▪ Future projects are expected to come into conflict with environmental limits of the kind now proposed to be mandated. ▪ The Association notes the statement in the Consultation[11] that the NBA will carry over the RMA's requirement to 'avoid, remedy or mitigate' adverse effects of activities on the environment and the Environment Committee's recommendation that environmental limits should only be set for ecological integrity and in respect for indigenous biodiversity. ▪ NZWEA supports the inclusion of avoid, remedy or mitigation of effects but considers it essential for renewable energy projects to be assessed as to whether a positive environmental outcome is achieved on a net basis also taking into account any environmental offsetting and/or compensation proposed. ▪ Refer appendix 3 for further commentary.

10. What is paramount, given the importance of achieving climate change targets, is that the environmental statutory framework acknowledges the decarbonisation imperative and the need to accelerate the development of renewable electricity generation and associated transmission infrastructure.

11. To achieve this, competing national policy directions – decarbonisation to address the environmental impacts of climate change and biophysical limits to address environmental degradation, must be balanced. The alignment would need to be across the NBA and Strategic Planning Acts and in particular in the national planning framework, regional spatial strategies, and natural and built environments plans.

Response to consultation questions – National planning framework

What role does the National Planning Framework (NPF) need to play to resolve conflicts that currently play out through consenting?	▪ A key criticism of the current RMA is that the multitude of national direction instruments compete against each other for priority which creates uncertainty for consent applicants and challenges for consenting authorities. ▪ It is essential that the NPF enables conflict resolution regarding competing national policy directions on biophysical limits and decarbonisation to address climate change.

[11] MfE Consultation, page 20 – managing environmental effects.

	▪ The NPF must clearly set out where and how conflicts are to be resolved, including guiding principles that are to be applied to reconcile conflicts. These guiding principles should include the achievement of a net overall positive outcome enabling consideration of social and economic benefits alongside environmental effects, including through appropriate offsetting and compensation as critical means to achieve net overall benefits.

Response to consultation questions – Regional spatial strategies

To what degree should regional spatial strategies (RSSs) and implementation agreements drive resource management change and commit partners to deliver investment?	▪ The potential for regional spatial strategies (RSS) to be an enabler of infrastructure development is recognised, particularly if strategies are effectively aligned with NBA Plans that provide a simplified consenting pathway within identified areas. ▪ For the electricity sector RSS's will also be useful tools for identifying and protecting existing and consented infrastructure. ▪ They will however have limits in what they can achieve in relation to future infrastructure. Renewable energy projects are driven by a complex range of factors including wind resource, detailed environmental impact, access to transmission, new technology, landowner negotiations, construction risks, market and generator portfolio impacts and an overall commercial assessment. These factors change over time, often rapidly, and until sufficiently advanced (often just prior to consenting processes), they are subject to commercial confidentiality due to the competitive market that the electricity sector operates within. ▪ RSS's will have a role to play where energy resources are well defined spatially but cannot plan for all factors in defining locations so should not limit or constrain the opportunity to develop renewables in other areas. ▪ It is recognised that progressing development outside of designated areas may require a different and more demanding approach to consenting. ▪ Given the nature and timing of renewables investment and in particular for wind farms, the need to monitor the wind resource over a period of time, it is difficult to see how implementation agreements could be negotiated as part of the development of RSS's to the point where it would be possible to bind delivery partners.

Response to consultation questions – NBA Plans

Do you agree with the Randerson Panel's recommendation to have one combined Natural and Built Environments Act (NBA) plan per region?	▪ Yes. Consolidating the regional and district plans into one per region should assist to provide stability and consistency of consenting approaches, including reduced complexity and reduced compliance costs. ▪ Success will however depend on having clear and unambiguous direction in the NBA, particularly the environmental outcomes, and supporting policy framework in the NPF, to ensure that NBA plans are able to articulate national tensions in the regional context.
Would there be merit in enabling sub-regional NBA plans that would be incorporated into an NBA plan?	▪ Potentially but there would need to be clear criteria developed to support the development of sub-regional plans to avoid a proliferation of planning documents.
Will the proposed plan-making process be more efficient and effectively deliver planning outcomes?	▪ Combined NBA plans should be more efficient and effective than the current planning system, particularly if the process is appropriately sequenced starting with the NPF, then RSSs and finally NBA plans. ▪ However the level of efficiency will also be dependent on the plan making model developed and form of decision-making entities.

Response to consultation questions – Consenting

Will the proposed future system be more certain and efficient for plan users and those requiring consents?	▪ Insufficient detail is currently available on the proposed consenting regime to comment in detail on whether the process will be more certain and efficient for users. ▪ Depending on the level of detail in RSS's and NBA plans it should be possible to establish a lower risk and more efficient consenting process for infrastructure projects. ▪ Key for renewables development, which is largely location dependent, is for greater recognition of the need for flexibility regarding offsetting and compensation for adverse effects associated with infrastructure projects in the pursuit of an overall net positive environmental outcome.

Response to consultation questions – Compliance, monitoring and enforcement

Do you agree with the proposed changes to compliance, monitoring and enforcement provisions and tools?	▪ The electricity sector has a record of a high level of compliance with consent conditions so welcomes improved compliance, monitoring and enforcement provisions and tools.

About the NZ Wind Energy Association (NZWEA)

- The NZWEA is an industry association that promotes the development of wind as a reliable, sustainable, clean and commercially viable energy source.
- We aim to fairly represent wind energy to the public, Government and the energy sector.
- Our members are involved in the wind energy sector and include electricity generators, wind farm developers, lines companies, turbine manufacturers, consulting organisations and other providers of services to the wind sector,
- By being a member of NZWEA you are assisting the development of wind energy in New Zealand and helping to reduce our greenhouse gas emissions to meet climate change targets.

The Association's strategy focuses on three key areas:

- Leveraging NZ's emission reduction imperative to enable the energy transition to renewables, particularly wind energy.
- Optimising wind energy's position and ensuring the regulatory environment supports wind farm development.
- Expanding the opportunity for wind energy development to enable community and industrial projects including wind's integration with other technologies.

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Appendix 1 – Recognition of Resource Management Issues

- Issues with the RMA have been well documented. In relation to the energy sector, a 2016 Ministry for the Environment Report on the effectiveness of the National Policy Statement for renewable Electricity Generation (NPS-REG) [12] concluded *'the NPS-REG does not appear to have resulted in noticeably more certainty for resource consent applicants for REG projects'* and '*the NPS-REG has not resulted in nationally consistent approaches to the drafting of regional and district plans'*.
- Key challenges noted included *'a lack of detailed direction and guidance'* and *'the complexities in balancing and resolving interactions between the NPS-REG and other national policy statements and other competing RMA part 2 matters at a local level'.*
- A number of influential reports on the electricity sector [13] and on addressing the impacts of climate change [14] have similarly highlighted the importance of resource management reform if the potential of renewable electricity generation to contribute to the decarbonisation of the energy sector and the 2050 net zero emissions target is to be achieved.
- In response, the Government has, in addition to the wider review of the resource management system, in parallel commenced a review of national direction on renewable electricity.
- The national direction project has reviewed existing RMA provisions relating to renewable electricity, national direction instruments and case law, and has identified a number of challenges in the current resource management system to achieving New Zealand's climate change and renewable electricity targets. The key issues which have been identified include:
    - Existing national direction on renewable electricity generation provides limited direction and weak policy wording. As such it has generally been ineffective.
    - There are gaps in the application of the National Policy Statement for Electricity Transmission and National Environmental Standard on Electricity Transmission Activities which mean that certain transmission and distribution are not as effectively enabled.
    - There is a lack of clear national direction on resolving key tensions between competing national and local interests and environmental/biophysical limits (e.g. extent of natural wetlands, significant natural areas, high natural character, and outstanding natural landscapes and features).
    - There are uncertainties relating to the consenting pathways for renewable electricity projects which trigger 'avoid policies', regardless of whether the project can demonstrate net environmental and economic benefits.
    - Acceptance of offsetting and compensation approaches, to avoid significant adverse effects, is limited.

[12] Ministry for the Environment, Report on the Outcome Evaluation of the National Policy Statement for Renewable Electricity generation, December 2016 Electricity Authority, Transmission Pricing Review, July 2019.
[13] Electricity Price Review Final Report October 2019 and MBIE Accelerating Renewable Energy discussion document, December 2019.
[14] Productivity Commission, Low-emissions Economy Report, August 2018. Interim Climate Change Committee Accelerated Electrification April 2019, He Pou a Rangi Climate Change Commission, 2021 Draft Advice for Consultation January 2021

- The time, complexity and cost of consenting renewable projects under the current system is acting as a barrier to some renewable electricity projects and will not provide for the pace of development required to meet New Zealand's renewable electricity generation targets.
- The re-consenting process is overly complex, inconsistent and creates significant uncertainty and costs.
- Catch-all discretionary/non-complying activity rules do not reflect the variability of environmental effects for different types and scales of generation.

- The Association also maintains that the current RMA consenting process is a major barrier to the development of community and other distributed renewable generation projects as it does not differentiate on the scale and complexity of projects.
- Studies undertaken by the Parliamentary Commissioner for the Environment[15] confirm that large scale wind farms can only ever occupy a limited portion of a country's wind locations. Other locations with microclimates that have funnelling or hilltop attributes are very favourable for community wind projects.
- Internationally small-scale community-owned wind farms are a growing sector to utilise available wind resource and increase local energy independence while reducing carbon emissions. Denmark, Germany, Austria and the Netherlands have high levels of community ownership which have played a major role in the development of wind energy.
- The current consenting process favours large-scale developments where the high cost of consenting has a relatively lower overall impact on commercial viability and generally is in the range of between $25k and $50k per MW. For small developments consenting costs can be significantly higher. As an example, it has been estimated the consenting cost of wind turbines on Stewart Island would be in the order of $0.5m to $1.0m per MW[16].
- The Association considers smaller scale wind projects a key opportunity to support regional growth and improve energy resilience. Resource management reform to simplify and reduce the cost and uncertainty of obtaining a consent is a necessary prerequisite to enabling such developments.

[15] PCE Report Wind Power, People and Place (2006b) Parliamentary Commissioner for the Environment, PCE Report (2006a) Get smart, think small. Wellington Parliamentary Commissioner for the Environment.
[16] Roaring40s Wind Power presentation to the 2021 Wind energy Conference – Wind Development Potential including Small Scale opportunities May 2021.

Appendix 2 - Aligning Climate Change, Electricity Sector and Environmental Targets

- Climate change is undoubtedly the environmental issue of our time with global warming expected to have a material negative impact even if global emission reduction targets are achieved.
- The Government, in passing the Climate Change Response Act, has supported global ambition by setting a target of achieving net zero emissions of greenhouse gases other than biogenic methane by January 2050. The recent Climate Change Commission (CCC) Final Advice has recommended targets for the first 3 budget periods as a pathway to achieving the net zero target.
- The Commission recommends a 63% reduction in long lived gases by 2035 with key transition strategies including accelerating the uptake of electric and other zero emissions cars, buses, trucks and other vehicles, phasing out fossil base-load generation and replacing coal (and eventually gas) with biomass and electricity in industrial heat processes.
- Electrification of the energy sector with renewables is therefore a key plank of the CCC's recommendations.
- From a 2020 baseline, the CCC has wind generation increasing by 7.6 TWh (308%) by 2035 under their demonstration pathway. Should Tiwai stay, wind generation would need to increase by 10.9 TWh (479%). Wind generation is forecast to increase from 5% of total generation to 18% (demonstration pathway) or 26% if Tiwai stays by 2035.
- Transpower is forecasting a wind capacity of 6,500 MW and generation of 19.6 TWh by 2050 to comprise 28% of total generation[17]. The Waipipi Wind Farm, commissioned in 2021, and Turitea and Harapaki Wind Farms which are under construction, will see wind capacity double to 1,200 MW. An additional 5,300 MW of wind will be required to meet Transpower's forecast, this is an increase of over 430% and represents an additional 53 wind farms at 100MW each that will need to be consented and built.
- The Government has set a target of 100% renewable electricity generation by 2030. Renewable generation averaged 81% in 2020 and whether 100% (or near that value) can be achieved in the timeframe will depend on sustaining existing capacity and enabling new build activity.
- Under the Bill, environmental limits will be prescribed in the NPF or plans, with the intention that the limits are absolute bottom lines in their application.
- Given the resource management system will determine whether and where infrastructure can be built for renewable electricity generation which has a dependency on the availability of natural resources, the definition of environmental limits will be key.
- NZWEA considers there is a high likelihood of wind energy coming into conflict with biophysical limits and, if limits are to be enforced without recourse to mitigation including compensation or offsetting, it will be essential to test whether proposed environmental limits prevent the achievement of the Government's climate change and electricity targets.
- Without ensuring alignment and having a supportive resource management system there is a material risk that the significant renewable electricity generation build required to enable decarbonisation of the energy sector will not be possible.

[17] Transpower Whakamania i Te Mauri Hiko, Empowering our Energy Future, March 2020.

- In addition, enabling the reconsenting of current renewable generation, and hydro generation in particular, will be essential to sustaining capacity and being available to support the short-term variability of wind and solar generation.
- Part 2 of the NBA therefore needs to provide clear policy direction that enables responsible new and existing renewable electricity generation assisted also by direction that ensures climate change targets and specific environmental limits are balanced.

Appendix 3- Environmental limits – the risk of unintended consequences

- While acknowledging environmental limits are yet to be set, the Association considers there is a risk that they may be developed in such a way as to prevent the electrification of our society.
- This is so for all renewable generation and wind energy in particular as the resource is 'where it is', usually affecting the natural environment, and therefore there is an inherently higher risk of conflicting with environmental limits.
- Recent consultations have highlighted the risk of broadly defined absolute environmental limits. While recognising the imperative to improve indigenous biodiversity when responding to the 2019 consultation on indigenous biodiversity[18], in NZWEA's view, the draft National Policy Statement on Indigenous Biodiversity demonstrated this risk when it proposed to set a very low bar on triggering the 'significance' test. The Association accepts that meeting an environmental objective while also enabling infrastructure development, and specifically responsible renewable electricity development, will be challenging. However, it does not consider that making environmental limits immutable is the solution, particularly if such thresholds are to be qualitatively defined, and therefore subject to interpretation.
- NZWEA submitted that the draft National Policy Statement – Indigenous Biodiversity (NPS-IB) represents a significant risk to new renewable electricity generation development and enabling transmission infrastructure, particularly given the very broad and inclusive environmental limits and criteria contained in the draft:
    - Section 3.8 of the NPS and criteria in appendix 1 will result in most if not all indigenous features being recognised as "significant". In addition, the list of effects of activities which must be avoided in a Significant Natural Area (SNA) will mean most if not all new wind farm design will need to avoid all indigenous features with no effects mitigation or offset potential.
    - While there is a carve out for nationally significant infrastructure under 3.9(2)(d), which includes grid connected renewable electricity generation, the nature of the attributes and the guidance for interpretation, listed in appendix 2, is likely to result in most SNAs being considered "high" and therefore the "must avoid" requirement will prevail without the ability to consider the mitigation/offset hierarchy.
    - Renewable electricity development can only occur where there are natural resources that make development commercially viable. It is noted that in wind farm and other renewable consents, offsetting has been used to manage effects which cannot be avoided.
    - Section 3.9aiii, and the requirement to avoid any fragmentation or loss of buffering, also creates challenges for wind farm consents whereas this has previously been able to be addressed through offsetting.
- The Association sought changes to balance interests such as better defining high ranking / conditions and enabling ecological mitigation / offsets and mechanisms that are financially responsible that cause management, enrichment, spatial enlargement and physical protection of IB in exchange for effects to medium and low ranking IB, but

[18] He Kura Koiora i hokia Discussion document on a proposed National policy Statement for Indigenous Biodiversity November 2019.

also perhaps other types of effect too. This would be an important ability for the new legislation to enable.

- To illustrate difficulties that environmental limits could create, the Association references the new National Environmental Standard (NES) for Freshwater (NES-F)[19] and, in particular, section 53 Prohibited Activities which defines any earthworks or taking, use, damming, diversion or discharge of water within a natural wetland as a prohibited activity.
- While problematic for the wind industry, particularly as definition of a wetland is likely to be interpreted extremely broadly (which recent experience indicates it has), the Association understands the NES-F already had a significant impact on aggregate extraction and that options are being considered to address the restriction.
- The draft NPS-IB and NES-F are examples where if environmental limits are broadly defined and absolute, they can create an impassable barrier in planning and consenting (including re-consenting) of existing and new renewable generation projects.
- Wind energy consents invariably have an environmental impact which has historically been addressed with recourse to mitigation, compensation or offsetting. It is highly likely that future projects will come into conflict with environmental limits of the kind now being mandated under clause 7 of the Bill.
- NZWEA considers that the NBA can provide a better balance to navigate between absolute limits for the majority of projects, if it enables a more nuanced approach to the way in which limits are set. This would include enabling limits to be set on a locationally-specific basis and/or for different limits to apply to different activities. For example, it would be useful for an environmental limit to be set for all activities but with a recognition that renewable energy projects were entitled to achieve the limit on a net basis assessed when considering any environmental offsetting and/or compensation proposed. That result would ensure that the environmental limit was effective, while not precluding activities that were in keeping with that limit.
- Inserting a climate specific environmental target in clause 7 would assist achieving balance and ensure the overall intent and outcomes of the NBA are achieved.

[19] Resource Management (National Environmental Standards for Freshwater) August 2020.